

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

NOEL BRALLEY,
CAROLYN BRALLEY,
and
BRAXTON BRALLEY,

Plaintiffs,

v.

Case No. 3:10-cv-138-REP

MARK A. CAREY, *et al.*

Defendants.

**MEMORANDUM IN OPPOSITION TO
MOTION FOR JUDGMENT ON SETTLEMENT**

COMES NOW Mark A. Carey, individually, and The Law Offices of Mark A. Carey, P.C. ("Carey"), by counsel, and submits this memorandum in opposition to the relief requested by the Plaintiffs.

After receiving approval from Mark A. Carey on or about April 22, 2010, counsel contacted Plaintiffs' counsel and agreed to the principal terms of settlement as follows:

1. Payment of \$15,000, payable in two payments of \$7,500;
2. Said payments were to be made thirty days apart;
3. Mark A. Carey would personally guaranty payment of the settlement amounts;
4. A settlement agreement would be worked out by counsel.

Plaintiffs' counsel forwarded a draft settlement agreement to Carey's counsel; which was edited and forwarded to Carey for review and comment. As the emails attached to Plaintiffs' motion made clear, counsel's edits to the proposed settlement agreement had not been approved by

Carey. Therefore, the parties have not satisfied the fourth prong of the settlement because details of the settlement agreement have never been agreed upon. While counsel have recommended the terms contained in the settlement agreement to each of their clients, no consensus has yet been reached.

Carey, through counsel, subsequently informed Plaintiffs' counsel that because of unforeseen events, Carey could no longer afford to make two \$7,500 payments. Carey suggested that he could tender the settlement proceeds over four months. Plaintiffs' counsel rejected this offer.

Despite repeated efforts to contact Carey by telephone and email, counsel has received no communication from him since May 6, 2010.

Respectfully Submitted,

MARK A. CAREY, and
THE LAW OFFICES OF
MARK A. CAREY, P.C.

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CERTIFICATE OF SERVICE

I certify that on this 25th day of May 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to all parties entitled to receive such notice, including the following:

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